

MINUTES

ALCOHOL AND TOBACCO COMMISSION

FEBRUARY 20, 2007

CALL TO ORDER/NOTING OF QUORUM

Chairman Heath called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson, Commissioner Sturtz and Commissioner Guthrie. Also in attendance were Executive Secretary Choe and Superintendent Huskey.

Lisa Goldner of Bose McKinney and Evans, was present as an observer.

DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the February 6, 2007 meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PAD FORMS – Vice Chairman Johnson moved to approve the parties agreed disposition forms that were submitted for the February 20, 2007 meeting. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL31-21286 WAL-MART STORES EAST LP – Hearing Judge Choe stated this was a 2-2 vote by the Harrison County Local Board and a denial by the Commission for a new permit. The applicant filed a timely notice of appeal and the matter was set for hearing. The Hearing Judge now submits her Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairman Johnson moved to uphold the Hearing Judge's recommendation to reverse the original decision and approve the new permit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

Three hundred nine (309) renewals approved, sixty-four (64) new and/or transfer permits approved, five (5) permits approved for catering, three (3) permits approved for first year escrow, four (4) permit approved for second year escrow, four (4) permits approved for third year escrow, two (2) permit approved for fourth year escrow and two (2) permits approved for fifth year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Commissioner Sturtz and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR02-20071 PEPPERCHINI'S, LLC – Chairman Heath noted this is a type 209 renewal application with the local board voting two (2) to one (1) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR20-83470 TEER 3, INC. d/b/a APPETEAZER'S – Chairman Heath noted this is a type 210 renewal application with the local board voting four (4) to zero (0) to approve for one year.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the renewal for one year. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL43-22895 FREEDOM OIL, LLC – Chairman Heath noted this is a new type 115 application with the local board voting three (3) to zero (0) to disapprove.

Commissioner Guthrie stated the local board cited 905 IAC 1-27-4(b), lack of desire by the community to receive these services as their reason for recommending denial of this permit.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL45-22836 TARGET CORPORATION -

Chairman Heath – DL45-22836 Target Corporation a new type 208 application with the local board voting three (3) to one (1) to disapprove.

Commissioner Guthrie – The notes in this matter note that the remonstrators were talking about no desire in the local community, but the lack of desire was for Target to sell alcohol, not lack of alcohol period. As a matter of fact, the next one the local board approved a package store in the same community. Therefore, I move that we overturn the action of the local board and approve the permit.

Vice Chairman Johnson – Second.

Chairman Heath – All in favor.

Commission – Aye.

DL45-19494 ST. JOHN LIQUORS, INC. – Chairman Heath noted this is a type 217 transfer of location with the local board voting four (4) to zero (0) to approve.

Chairman Heath moved to uphold the local board's recommendation and approve the transfer. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL27-022841 VILLAGE PANTRY, LLC – Chairman Heath noted this is a new type 115 application with the local board voting two (2) to one (1) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

RR49-04216 BURRIS ENTERPRISES, INC. – Chairman Heath noted this is a type 210 renewal application with the local board voting three (3) to zero (0) to disapprove.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR18-07526 RA-DA-RNA, INC., d/b/a RED SLIPPER – Chairman Heath noted this is a type 210 transfer of stock with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the transfer. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

RR06-88132 P.K. OF ZIONSVILLE, INC., d/b/a VILLAGE STATION – Chairman Heath noted the location of this type 209 permit was annexed into the city limits of Zionsville. The permittee requests the Commission convert this permit to a type 210 permit.

Commissioner Guthrie moved to approve this conversion. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR18-22690 PRINCIPLE MANAGEMENT GROUP, LLC, d/b/a WING OUT – Chairman Heath noted this is a new type 112 application with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie stated the applicant has not appeared before the board and, therefore, moved to uphold the local board's recommendation and deny the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

RR64-19337 JOE A. RICCIARDI - Commissioner Guthrie stated this permit has been in escrow for five years. The permittee has made no effort to put this permit into use.

Commissioner Guthrie moved to deactivate this permit due to the possible, maximum, statutory escrow period has expired. Motion seconded by Commissioner Sturtz and it was unanimously approved.

INACTIVE FILES

Vice Chairman Johnson moved to make thirty-nine (39) permits inactive. Twelve (12) permits are subject to auction and twenty-seven (27) permits are not subject to auction. Motion seconded by Commissioner Sturtz and it was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

RR45-01174 DARLENE HERRERA - Commissioner Guthrie stated this permit has been in escrow for approximately 7 years, 2 by one owner and 5 by another. Renewals have been filed and there is no indication that the business is ready to open.

Commissioner Guthrie moved to deactivate this permit, due to the fact that the possible, maximum, statutory escrow period has expired. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR40-05265 RITZ GRILL & BAR, INC. - Commissioner Guthrie stated this permit was made inactive due to the fact that renewals were not filed. After the permit was made inactive, the Commission was notified that the reason renewals weren't filed was because the owner had died. The estate requests the Commission reactivate the permit.

Commissioner Guthrie moved to reactivate this permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

POLICY DETERMINATIONS

No Policy Determinations

UNDER ADVISEMENT

Nothing Under Adviseement

ANNOUNCEMENTS

No Announcements

ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

Approved this _____ day of _____, 2007.

DAVE HEATH, CHAIRMAN

DAVID JOHNSON, VICE CHAIR

DALE STURTZ, COMMISSIONER

FRANK GUTHRIE, COMMISSIONER